

SENATE BILL No. 385

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-14.

Synopsis: Redevelopment commission housing programs. Permits redevelopment commissions in counties other than Marion County to establish a housing program and a tax increment funding allocation area for that program. (Current law requires Marion County to establish such a program.)

Effective: July 1, 2004.

Broden

January 12, 2004, read first time and referred to Committee on Finance.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 385

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-14-35 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 35. (a) In order to:
3 (1) undertake survey and planning activities under this chapter;
4 (2) undertake and carry out any redevelopment project, ~~or~~ urban
5 renewal project, **or housing program**;
6 (3) pay principal and interest on any advances;
7 (4) pay or retire any bonds and interest on them; or
8 (5) refund loans previously made under this section;
9 the redevelopment commission may apply for and accept advances,
10 short term and long term loans, grants, contributions, and any other
11 form of financial assistance from the federal government, or from any
12 of its agencies. The commission may also enter into and carry out
13 contracts and agreements in connection with that financial assistance
14 upon the terms and conditions that the commission considers
15 reasonable and appropriate, as long as those terms and conditions are
16 not inconsistent with the purposes of this chapter. The provisions of
17 such a contract or agreement in regard to the handling, deposit, and

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1 application of project funds, as well as all other provisions, are valid
 2 and binding on the unit or its executive departments and officers, as
 3 well as the commission, notwithstanding any other provision of this
 4 chapter.

5 (b) The redevelopment commission may issue and sell bonds, notes,
 6 or warrants to the federal government to evidence short term or long
 7 term loans made under this section, without notice of sale being given
 8 or a public offering being made.

9 (c) Notwithstanding the provisions of this or any other chapter,
 10 bonds, notes, or warrants issued by the redevelopment commission
 11 under this section may:

- 12 (1) be in the amounts, form, or denomination;
- 13 (2) be either coupon or registered;
- 14 (3) carry conversion or other privileges;
- 15 (4) have a rank or priority;
- 16 (5) be of such description;
- 17 (6) be secured (subject to other provisions of this section) in such
 18 manner;
- 19 (7) bear interest at a rate or rates;
- 20 (8) be payable as to both principal and interest in a medium of
 21 payment, at a time or times (which may be upon demand) and at
 22 a place or places;
- 23 (9) be subject to terms of redemption (with or without premium);
- 24 (10) contain or be subject to any covenants, conditions, and
 25 provisions; and
- 26 (11) have any other characteristics;

27 that the commission considers reasonable and appropriate.

28 (d) Bonds, notes, or warrants issued under this section are not an
 29 indebtedness of the unit or taxing district within the meaning of any
 30 constitutional or statutory limitation of indebtedness. The bonds, notes,
 31 or warrants are not payable from or secured by a levy of taxes, but are
 32 payable only from and secured only by income, funds, and properties
 33 of the project becoming available to the redevelopment commission
 34 under this chapter, as the commission specifies in the resolution
 35 authorizing their issuance.

36 (e) Bonds, notes, or warrants issued under this section are exempt
 37 from taxation for all purposes.

38 (f) Bonds, notes, or warrants issued under this section must be
 39 executed by the appropriate officers of the unit in the name of the "City
 40 (or Town or County) of _____, Department of
 41 Redevelopment", and must be attested by the appropriate officers of the
 42 unit.

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(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if he had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 2. IC 36-7-14-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 45. The general assembly finds the following:**

(1) There exists within blighted, deteriorated, or deteriorating areas a shortage of safe and affordable housing for persons of low and moderate income.

(2) The planning, replanning, development, and

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1 redevelopment of housing within blighted, deteriorated, or
 2 deteriorating areas are public and governmental functions
 3 that cannot be accomplished through the ordinary operations
 4 of private enterprise because of:

5 (A) the necessity for the exercise of the power of eminent
 6 domain;

7 (B) the necessity for requiring the proper use of the land so
 8 as to best serve the interests of the county and its citizens;
 9 and

10 (C) the costs of these projects.

11 (3) The provision of affordable housing for persons of low or
 12 moderate income does not compete with the ordinary
 13 operation of private enterprise.

14 (4) It is in the public interest that work on the provision of
 15 housing be commenced as soon as possible to relieve the need
 16 for this housing, which constitutes an emergency.

17 (5) The absence of affordable housing in blighted,
 18 deteriorated, or deteriorating areas necessitates excessive and
 19 disproportionate expenditures of public funds for crime
 20 prevention, public health and safety, fire and accident
 21 prevention, and other public services and facilities.

22 (6) The planning, replanning, development, and
 23 redevelopment of housing within blighted, deteriorated, or
 24 deteriorating areas will do the following:

25 (A) Benefit the health, safety, morals, and welfare of the
 26 county and the state.

27 (B) Serve to protect and increase property values in the
 28 county and the state.

29 (C) Benefit persons of low and moderate income by making
 30 affordable housing available to them.

31 (D) Reduce public expenditures required for governmental
 32 functions such as police and fire protection and other
 33 services.

34 (7) The planning, replanning, development, and
 35 redevelopment of housing within blighted, deteriorated, or
 36 deteriorating areas under this section and sections 46 through
 37 49 of this chapter are:

38 (A) necessary in the public interest; and

39 (B) public uses and purposes for which public money may
 40 be spent and private property may be acquired.

41 (8) This section and sections 46 through 49 of this chapter
 42 shall be liberally construed to carry out the purposes of this

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section and this chapter.

SECTION 3. IC 36-7-14-46 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 46. (a) The commission may establish a program for housing. The program, which may include the elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 49 of this chapter for the accomplishment of the program.**

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 4. IC 36-7-14-47 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 47. All the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for housing, including the following:**

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the housing program.

(2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the housing program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

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SECTION 5. IC 36-7-14-48 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 48. The commission must make the following findings in the resolution adopting a housing program under section 46 of this chapter:**

(1) The program meets the purposes of section 45 of this chapter.

(2) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) lack of public improvements;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(3) The public health and welfare will be benefited by accomplishment of the program.

(4) The accomplishment of the program will be of public utility and benefit as measured by:

(A) the provision of adequate housing for low and moderate income persons;

(B) an increase in the property tax base; or

(C) other similar public benefits.

(5) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.

(6) At least three-fourths (3/4) of the allocation area is used for residential purposes or is planned to be used for residential purposes.

(7) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.

(8) At least one-third (1/3) of the parcels in the allocation area have one (1) or more of the following characteristics:

(A) The dwelling unit on the parcel is not permanently occupied.

(B) The parcel is the subject of a governmental order, issued under a statute or ordinance, requiring the correction of a housing code violation or unsafe building condition.

(C) Two (2) or more property tax payments on the parcel are delinquent.

(D) The parcel is owned by local, state, or federal government.

SECTION 6. IC 36-7-14-49 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2004]: Sec. 49. (a) Notwithstanding section 39(a) of this chapter,
3 with respect to the allocation and distribution of property taxes for
4 the accomplishment of a program adopted under section 46 of this
5 chapter, "base assessed value" means the net assessed value of all
6 of the land as finally determined for the assessment date
7 immediately preceding the effective date of the allocation
8 provision, as adjusted under section 39(g) of this chapter. However,
9 "base assessed value" does not include the value of real property
10 improvements to the land.

11 (b) The allocation fund established under section 39(b) of this
12 chapter for the allocation area for a program adopted under
13 section 46 of this chapter may be used only for purposes related to
14 the accomplishment of the program, including the following:

15 (1) The construction, rehabilitation, or repair of residential
16 units within the allocation area.

17 (2) The construction, reconstruction, or repair of
18 infrastructure (such as streets, sidewalks, and sewers) within
19 or serving the allocation area.

20 (3) The acquisition of real property and interests in real
21 property within the allocation area.

22 (4) The demolition of real property within the allocation area.

23 (5) To provide financial assistance to enable individuals and
24 families to purchase or lease residential units within the
25 allocation area. However, financial assistance may be
26 provided only to those individuals and families whose income
27 is at or below the county's median income for individuals and
28 families, respectively.

29 (6) To provide financial assistance to neighborhood
30 development corporations to permit them to provide financial
31 assistance for the purposes described in subdivision (5).

32 (7) To provide each taxpayer in the allocation area a credit
33 for property tax replacement as determined under subsections
34 (c) and (d). However, this credit may be provided by the
35 commission only if the municipal legislative body (in the case
36 of a redevelopment commission established by a municipality)
37 or the county executive (in the case of a redevelopment
38 commission established by a county) establishes the credit by
39 ordinance adopted in the year before the year in which the
40 credit is provided.

41 (c) The maximum credit that may be provided under subsection
42 (b)(7) to a taxpayer in a taxing district that contains all or part of

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an allocation area established for a program adopted under section 46 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable on May 10 and November 10 of a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

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(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 46 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 46 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

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